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Child Care and Development Fund Tribal Plan Program Instruction

To: Federally Recognized Tribes, Tribal Consortia, and Tribal Lead Agencies administering child care programs under the Child Care and Development Fund (CCDF) program, as amended, and other interested parties.

Purpose: This Program Instruction (PI) provides guidance to Tribes, Tribal Organizations, and Tribal Lead Agencies for using the Tribal CCDF Plan Preprint (Preprint) (ACF-118A) to complete and submit the Tribal CCDF Plan (Plan) for the CCDF program Fiscal Year (FFY) 2023-2025.

This PI does not apply to Tribes that have consolidated their CCDF program into an approved Public Law 102-477 Plan under the Indian Employment, Training, and Related Services Demonstration Act.

This PI also provides guidance on the submission of Plan amendments for approval under the FFY 2020-2022 Plan (if applicable) to reflect any significant changes in the administration of the CCDF program, and clarification and guidance on certain areas of the Plan.

References The CCDBG Act of 1990 (42 U.S.C. § 9858 et seq.), as amended by the CCDBG Act of 2014 (Pub. L. 113-186); Section 418 of the Social Security Act (42 U.S.C. § 618); and 45 CFR Parts 98 and 99.

Submission Deadlines and Plan Effective Dates: As indicated in the [Program Instruction](#) issued on April 27, 2022, the Tribal Plan submission date was extended from July 1, 2022 for six months. The new FFY 2023-2025 Tribal CCDF Plan submission date is **January 31, 2023**. Once approved, the FFY 2023-2025 Tribal CCDF Plan effective period will be May 1, 2023 through September 30, 2025. Tribes will receive two separate Plan approval letters – a provisional approval letter and a final approval letter. The provisional approval letter will be issued in early October 2022 in order to extend the effective period of the approved FFY 2020-2022 Tribal CCDF Plan. It will indicate acceptance of the Triennial Child Count Declaration in Appendix 1 of the Plan and the Tribal Early Learning

Initiative in Appendix 2 of the Plan (if applicable). . Once OCC receives the FFY 2023-2025 Tribal CCDF Plan by January 31, 2023, and completes its review of the provisions of the Plan by the end of April 2023, you will receive a separate final approval letter that will include any applicable conditions for CCDF provisions that are not fully implemented based on the results of the review.

Until the FFY 2023-2025 Tribal CCDF Plan review is completed, and the Plan is approved, the Tribe will operate under its currently approved FFY 2020-2022 Tribal CCDF Plan. The Plan effective period for the FFY 2020-2022 Tribal CCDF Plan has been extended to cover October 1, 2020 through April 30, 2023. Tribes with conditions in their FFY 2020-2022 CCDF Plan will have until the FFY 2023-2025 Tribal CCDF Plan is approved to come into compliance. During this time, any substantial changes to your CCDF program must be submitted to your Regional Office as a plan amendment to your FFY 2020-2022 for approval in accordance with 45 CFR §98.18(b). Tribal Lead Agencies that have not fully implemented provisions in their FFY 2020-2022 CCDF Plan are expected to take corrective actions to reach full implementation of the CCDBG Act of 2014 and the final rule and come into compliance with CCDF requirements no later than April 30, 2023.

Guidance:

The Plan serves as the Tribal Lead Agency's application for CCDF funds by providing a description of its child care program and services available to eligible families. The Plan provides information about (this is not an exhaustive list): the overall management of CCDF services, including information regarding eligibility guidelines, provider payment rates, service priorities, parental rights and responsibilities, program integrity and accountability, and quality improvement activities. The Plan also presents an opportunity for Tribal Lead Agencies to demonstrate the many activities and services they are providing to meet the needs of low-income children and families.

CCDF provides substantial flexibility to Tribal Lead Agencies in meeting the requirements. One flexibility is to exempt Tribal Lead Agencies from several of the CCDF requirements. Tribal Lead Agencies are **not** subject to the requirements to:

- Maintain or implement early learning and developmental guidelines (45 CFR 98.81(b)(6)(i));
- Have a consumer education website (4 CFR 98.83(d)(1)(i));

- Have licensing requirements applicable to child care services (45 CFR 98.83(d)(1)(ii));
- Have a training and professional development framework (45 CFR 98.83(d)(1)(iii));
- Conduct a market rate survey (45 CFR 98.83(d)(1)(iv));
- Give priority services to children of families with very low family income or in areas with significant concentrations of poverty and unemployment (45 CFR 98.83(d)(1)(v) & (vi));
- Spend at least 70 percent of Mandatory funds on TANF-related families (45 CFR 98.83(d)(1)(vii)); or
- Complete the Quality Progress Report (45 CFR 98.83(d)(1)(viii)).

Another flexibility is tiered approach to the CCDF requirements where Tribal Lead Agencies are subject to different CCDF requirements depending on the size of their FFY 2016 CCDF allocations (45 CFR 98.83(d)-(f)).

- **Tribal Lead Agencies with small allocations** (allocations of less than \$250,000 in FFY 2016) have flexibility in the majority of the CCDF requirements. Tribal Lead Agencies with small allocations are not subject to the requirement to provide direct child care services to children and families. These Tribal Lead Agencies are still expected to spend their funds in alignment with CCDF goals and purposes.
- **Tribal Lead Agencies with medium allocations** (\$250,000 to \$1,000,000 in FFY 2016) are allowed the same flexibilities as Tribal Lead Agencies with large allocations and are not required to operate a certificate program.
- **Tribal Lead Agencies with large allocations** (over \$1,000,000 in FFY 2016) are subject to the majority of CCDF requirements.

Allocation sizes for the FFY 2023-2025 Plan period are based on [FFY 2016 CCDF allocation amounts](#). Allocation sizes for Tribal Lead Agencies that have applied and become Tribal Lead Agencies since FFY 2016 will be determined by their first annual allocation amount.

The Preprint is a template meant to be used by Tribal CCDF applicants to ensure that their Plan includes the requirements

necessary to be awarded CCDF funds and incorporates the flexibilities made in the law and final rule.

The Preprint is structured to align with the flexibilities Tribal Lead Agencies have based on their allocation. Tribal Lead Agencies with small allocations must complete Part I and Tribes with medium and large allocations must complete Parts I and II.

Part I (For Tribal Lead Agencies with small, medium, and large allocations)

- Define CCDF leadership and coordination with relevant systems
- Establish standards and monitoring processes to ensure the health and safety of child care settings
- Support continuous quality improvement
- Describe direct services as part of abbreviated Plan (for Tribal Lead Agencies with small allocations who chose this option)

Part II (For Tribal Lead Agencies with medium and large allocations only)

- Provide stable child care financial assistance to families
- Ensure equal access to high quality child care
- Promote family engagement through outreach and consumer education

Tribal Eligibility for CCDF Funds:

Pursuant to 45 CFR 98.80, a Tribe is eligible to apply for and receive CCDF funds if the Tribe is federally recognized, and the Tribal population includes at least 50 children under age 13.

A Tribe with fewer than 50 children under age 13 may participate in a consortium of eligible Tribes. In order to be eligible to receive CCDF funds on behalf of its member Tribes, a consortium must:

- Consist of Tribes that meet the eligibility requirements for the CCDF program if the Tribe had at least 50 children under age 13; and

- Demonstrate it has current authorization from each participating Tribe to receive CCDF funds on behalf of the Tribe. (Each consortium member must provide a demonstration every three years for the consortium Lead Agency to include with the plan submission.)
- Demonstrate its current service delivery capability, including skills, personnel, resources, community support, and other necessary components to satisfactorily carry out the proposed program.

Consortium Membership Changes – It is the responsibility of a Tribal Lead Agency consortium to notify ACF of any changes in its membership for CCDF funding purposes during the approved Plan period. For example, if a new Tribe joins a Tribal consortium during the Plan effective period, or if a current Tribal consortium member elects not to receive funds through that Tribal consortium, these changes must be conveyed to ACF in writing by the Tribal consortium through an amendment to the CCDF Plan.

**Triennial Child
Count Declaration
Form:
Construction and
Renovation:**

Child count data were due on July 1, 2022. Guidance is provided in the OCC PI [CCDF-ACF-PI-2022-03](#).

In order to use CCDF Funds for construction or major renovation projects, all Tribal Lead Agencies are required to follow ACF's construction and renovation application procedures. A separate application must be submitted for approval in accordance with a different PI, [CCDF-ACF-PI-2020-02](#).

**Funding Estimates
and Allocation
Formulas:**

The CCDF is comprised of two funding sources:

- Tribal Discretionary funds – funding provided under the Child Care and Development Block Grant (CCDBG) Act of 2014, as amended. The Discretionary Funds include a base amount of \$30,000 plus a per child amount for each Tribe or Tribal consortia with an approved Plan.
- Tribal Mandatory funds—funding provided to eligible Tribes and Tribal organizations under Section 418 of the Social Security Act. Tribal Mandatory Funds are calculated solely on a per child basis and do not include a base amount.

The per child amount for both Tribal Discretionary and Tribal Mandatory funds depend upon the total number of children in all participating Tribes. Therefore, ACF is unable to calculate in advance

the exact per child amount until all child counts have been submitted and the FFY 2023 budget becomes available.

For planning purposes, current Tribal Lead Agencies should use their funding amounts from the FFY 2022 as an estimate. A new Tribal Lead Agency should use the base amount of \$30,000 plus approximately \$415 per child to estimate its allotment for Tribal Discretionary funding and should use approximately \$85 per child to estimate its allotment for Tribal Mandatory funding.

A Tribal consortium should estimate its allotment for Tribal Discretionary funding for each of its members by calculating a portion of the base amount that is equivalent to the ratio of the number of children in each member Tribe to 50, plus the additional per child amount. For example, a Tribe with 49 children is allotted $49/50^{\text{th}}$ of \$30,000, or \$29,400. The per child amount is then multiplied by 49 and added to the \$29,400 base amount.

Important Note: The funding amounts in these formulas are provided for the purposes of estimating the FFY 2023 allotments that will become available on October 1, 2022. Before final grant awards are issued, allotments may increase or decrease once actual funding appropriations are known and updated data becomes available.

**Quality
Expenditures:**

All Tribal Lead Agencies are subject to a minimum quality set-aside amount of 9 percent. For Tribal Lead Agencies with large and medium allocations, the minimum amount of funding required for infant/toddler quality activities is 3 percent.

**Administrative
Costs:**

No more than 15 percent of the total CCDF funds expended from each fiscal year's allotment may be used for administrative costs. Tribal Lead Agencies should review the CCDF regulations at 45 CFR 98.52 for a discussion of administrative costs.

Note: The Tribal Discretionary funds base amount is not subject to the 15 percent limit, nor is it included in the calculation of the 15 percent limit.

**Obligation and
Liquidation Periods:**

Tribal Lead Agencies have two fiscal years to obligate and an additional year to liquidate the funds awarded that fiscal year (Tribal Mandatory and Tribal Discretionary). For example, Tribal Lead Agencies must obligate GY 2023 Tribal Mandatory and Discretionary funds by September 30, 2024 and liquidate all funds by September 30, 2025. The timeframes for each fiscal year begin on October 1, regardless of when Notice of Award letters are issued.

Note: Any GY 2023 CCDF funds transferred and approved by ACF for construction and major renovation must be liquidated by September 30, 2025.

- The liquidation period begins with the date the funds are originally awarded and not the date that funds are transferred to the separate grant award for construction and major renovation.
- There is no separate obligation period for funds transferred for construction or major renovation.
- The liquidation period applies to funds that are transferred to construction accounts and later approved for non-construction CCDF activities.

Submitting the Tribal Plan:

Tribal Lead Agencies will complete and submit their complete Plan for the FFY 2023-2025 triennial plan cycle including all appendices and attachments to the Child Care Automated Reporting System (CARS) at <https://cars.acf.hhs.gov>. CCDF Tribal Lead Agencies will use the same access to CARS that was used for submitting the triennial child count.

CARS is a password-protected web-based system. Use of the paperless Internet data entry site streamlines submission processing and improves data quality. Tribes should not submit separate submissions separate from the CARS system.

For access to CARS, contact the CARS team toll-free at 1-877-249-9117.

Plan Amendments:

Any substantial change to the CCDF program during the Plan effective period requires an amendment to the approved Plan (45 CFR 98.18(b)).

Determining whether a given change is “substantial” (and therefore requires a Plan amendment) requires examination of the specific circumstances as well as the content of the existing approved Plan. However, substantial changes in a Tribal Lead Agency’s Plan generally include instances when the Tribal Lead Agency:

- Adds a significant additional program activity;
- Eliminates a significant program activity;

- Changes its basic Plan for the use of funds, including payment rates, eligibility thresholds, family co-payment, or quality initiatives; or
- Changes the Lead Agency responsible for administering the program.

To amend a Plan, Tribal Lead Agencies will enter amendment information into CARS within 60 days of the effective date of the change. More information on this process will be released in the future.

ACF will make determinations on amendments no later than 90 days following the date on which the amendment was received, unless a written agreement to extend that period has been secured (45 CFR 98.18(b)). OCC PI CCDF-ACF-PI-2009-01 provides additional clarification regarding CCDF Plan amendments. This PI is available on the OCC website at:

<https://www.acf.hhs.gov/occ/policy-guidance/ccdf-acf-pi-2009-01>.

FFY 2020-2022 Tribal CCDF Plan Amendments: Tribal Lead Agencies are required to administer their child care program in accordance with the CCDF regulations and their approved Plan. Because the FFY 2020-2022 Tribal CCDF Plan effective period has been extended to April 30, 2023, Tribal Lead Agencies making substantial changes to their CCDF programs prior to the approval of the FFY 2023-2025 Plan will be required to submit a FFY 2020-2022 Plan amendment to their Office of Child Care (OCC) Regional Office for approval. In accordance with CCDF regulations, amendments must be submitted to ACF within 60 days of the effective date of change. (See 45 CFR § 98.18.) If the change will be effective within 60 days of the FFY 2023-2025 Plan period or as of April 30, 2023, then an amendment is not needed in the FFY 2020-2022 Tribal CCDF Plan and the program change should be included in the new Plan.

In some cases, Tribal Lead Agencies are reliant on partnerships with states for some background check requirements. Any changes to states' comprehensive background check policies will be considered as part of the FFY 2023-2025 Tribal CCDF Plan approval process. Tribal Lead Agencies that rely on a state's comprehensive background check policies do not need to submit an amendment prior to submitting the FFY 2023-2025 Tribal CCDF Plan if the state has come into compliance with their comprehensive background check policy.

Public Law 102-477: Tribes that have consolidated their CCDF funds under the Indian Employment, Training and Related Services Consolidation Act of

2017 (commonly known as Pub. L. 102-477) will continue to operate under their approved Pub. L. 102-477 Plans.

All Tribes, including those under an approved Pub. L. 102-477 Plan, must submit their triennial child count declaration by the deadline July 1, 2022. The effective date for the child count will be October 1, 2022 through September 30, 2025.

This Program Instruction (i.e., for the Tribal Preprint) does not apply to those Tribes and Tribal organizations that consolidate CCDF funds under Pub. L. 102-477.

Reallotted

Discretionary funds:

Each year, Tribal CCDF Lead Agencies must notify ACF via letter at least 6 months before the end of the obligation period if they will be unable to obligate all their Tribal Discretionary funds allotment before the obligation period. This notification deadline is April 1 of the second year of the 3-year grant period. ACF Will then issue a negative grant award to the grantee based on the amount of Tribal Discretionary funds submitted in the letter. Based on the reallotment reports submitted by Tribal Lead Agencies, ACF will reallot these unused discretionary funds among other Tribal CCDF grantees(45 CFR 98.64(d)).

If a Tribal Lead Agency does not submit a reallotment report by the April deadline, a determination will be made that no funds are available for reallotment. Any funds reported to be available for reallotment after the April deadline shall revert to the Federal Government. Tribal Lead Agencies funding levels will not be affected by reallotting any of their CCDF funds.

Audits:

Audits must be conducted in accordance with 2 CFR Part 200 Subpart F and 45 CFR Part 75 Subpart F, Audit Requirements.

Inquiries:

Direct all inquiries to the appropriate ACF [Regional Child Care Office](#).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The information collection required under this Program Instruction is approved under OMB number 0970-0198 which expires 04/30/2025.

Ruth Friedman
Director
Office of Child Care

Attachments:

A—[Tribal Plan Preprint](#)